

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JASON CRUMRINE, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

VIVINT SOLAR, INC., DAVID
BYWATER, and DANA RUSSELL,

Defendants.

Case No. 1:19-cv-05777-FB-JO

ZHAOER LI, Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

v.

VIVINT SOLAR, INC., DAVID
BYWATER, and DANA RUSSELL,

Defendants.

Case No. 2:19-cv-06165-FB-JO

**NOTICE OF NON-OPPOSITION TO
MOTION OF BILLY WALLACE AND KYU
S. JANG FOR CONSOLIDATION OF ACTIONS,
APPOINTMENT AS LEAD PLAINTIFF, AND APPROVAL OF COUNSEL**

TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

On December 10, 2019, Billy Wallace and Kyu S. Jang (together, “Movant”) filed a motion, pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78u-4(a)(3)(B), as amended by the Private Securities Litigation Reform Act of 1995 (“PSLRA”), seeking entry of an Order: (1) consolidating the above-captioned actions; (2) appointing Movant as Lead Plaintiff on behalf of a class consisting of all persons or entities that purchased or otherwise acquired Vivint Solar, Inc. securities between March 5, 2019 and September 26, 2019, both dates inclusive; (3) approving Movant’s selection of the law firm Bragar Easel & Squire, P.C. (“BES”) as Lead Counsel for the putative class; and (3) granting such other and further relief as the Court may deem just and proper (the “Motion”). ECF No. 14.

On December 10, 2019, three other movants filed competing motions, Steven Mullen (“Mullen”) (ECF No. 6), Brian Chow and Zhaoer Li (the “Vivint Investor Group”) (ECF No. 8), and Paul Turner (“Turner”) (ECF No. 10).

On December 23, 2019, movant Mullen withdrew his motion for appointment as lead plaintiff, stating that after having “reviewed the competing motions filed in the action, Movant does not appear to have the largest financial interest.” ECF No. 17.

On December 23, 2019, the Vivint Investor Group filed a notice of non-opposition to the competing motions for appointment as lead plaintiff and approval of counsel, stating that “the Vivint Investor Group does not appear to have the largest financial interest in this action within the meaning of the PSLRA.” ECF No. 18.

On December 24, 2019, Movant filed a memorandum in opposition to the competing motions for consolidation of actions, appointment as lead plaintiff, and selection of counsel,

arguing that Movant has the largest financial interest in the litigation and satisfies the typicality and adequacy requirements. ECF No. 19.

On December 26, 2019, movant Turner filed a notice of non-opposition to the competing motions for consolidation of related actions, appointment as lead plaintiff, and approval of lead counsel, stating that “it appears that Turner does not possess the ‘largest financial interest in the relief sought by the class’ as required by the PSLRA. As such, Turner does not oppose the lead plaintiff motions of movants with losses larger than Turner’s.” ECF No. 20.

Any opposition to Movant’s Motion was due to be filed on December 24, 2019. No opposition to Movant’s motion has been filed.

Based on the facts presented above and on the factual and legal reasons presented in Movant’s memorandum of points and authorities in support of Movant’s Motion, Movant respectfully requests that the Court issue an Order granting its Motion in all respects.

DATED: December 31, 2019

Respectfully Submitted,

BRAGAR EAGEL & SQUIRE, P.C.

By: /s/ W. Scott Holleman

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*Counsel for Movant and [Proposed] Lead Counsel
for the Class*

CERTIFICATE OF SERVICE

I, W. Scott Holleman, hereby certify that this document was filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on this 31st day of December, 2019.

/s/ W. Scott Holleman

W. Scott Holleman